IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3258 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JITU @ JITENDRA BABULAL SONI BHURO JAGDISHBHAI RATHOD

Versus

POLICE COMMISSIONER OF AHMEDABAD CITY,

Appearance:

MR RD GAGDEKAR for Petitioner

MR SJ DAVE AGP for the respondent No.2-State.

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 19/06/2000

ORAL JUDGEMENT

1. The Commissioner of Police, Ahmedabad passed an order on August 8,1999, in exercise of powers under Section 3 (2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act " for short), detaining the petitioner- Jitu alias Jitendra Babulal Soni under

the provisions of the said Act.

2. The detaining authority took into consideration four offences registered against the detenu and statements of two anonymous witnesses in respect of whom privilege under Section 9 (2) of the PASA Act was exercised by the detaining authority. The detaining authority considered the detenu to be dangerous person whose activities were found by the detaining authority to be detrimental to public order. The detaining authority, therefore, observed that detention of the detenu under the PASA Act is the only efficacious remedy that can be restored to in order to immediately prevent the petitioner from pursuing his illegal activities.

3. The petitioner/detenu challenges the order of detention on various counts. However, Mr. R.D.Gadekar, learned advocate for the petitioner, has restricted his arguments to the point that page 37, 139 and 143 of the documents supplied by the detaining authority to the detenu are illegible. Hence, the petitioner was unable to make an effective representation to the Advisory Board as well as to the detaining authority as mentioned in the grounds of detention and further he has demanded the same, but the detaining authority failed to supply the same which affected the detenu's right of making an effective representation under Article 22 (5) of the Constitution of India, and therefore, the order of detention is required to be quashed and set aside. He showed a xerox copy of the document supplied at page 37, 139 and 143 of the compilation. On perusing the documents, it appears that the documents at page 37, 139 and 143 are vital documents on which reliance is placed by the detaining authority. The documents at page 37, 139 and 143 are shown to Mr. S.J.Dave and he fairly admitted that the said documents are not legible. Learned counsel for the petitioner placed reliance on the decision in the case of Pokhrajbhai Sohanbhai Chandel v. District Magistrate, Surat & Ors. 1991 (2) G.L.R. 753.

4. In view of the above position, I am of the opinion that the detaining authority failed to supply legible copy of the said relevant documents to the detenu for making an effective representation which has infringed the detenu's right under Article 22 (5) of the Constitution.

5. In the result, this petition is allowed. The impugned order of detention dated 18-8-1999 passed against the detenu is hereby quashed. The detenu Jitu alias Jitendra Babulal Soni is ordered to be set at

liberty forthwith, if he is not required to be detained in any other case. Rule is made absolute with no order as to costs.

19-6-2000 (R.P.Dholakia, J.)

*mithabhai